

DEC 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHNNY JONATHAN ZEBEDEUS;
IRENE KATHLEEN ZEBEDEUS; et al.,

Petitioners,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-70754

Agency Nos. A096-499-875

A096-499-876

A096-499-877

A096-499-878

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and RYMER, Circuit Judges.

Johnny Jonathan Zebedeus, his wife, and two children, natives and citizens
of Indonesia, petition for review of the Board of Immigration Appeals' order

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).

dismissing their appeal from an immigration judge's decision denying their application for asylum, withholding of removal and protection under the Convention Against Torture ("CAT"). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Hakeem v. INS*, 273 F.3d 812, 816 (9th Cir. 2001), and we deny the petition for review.

The agency denied Zebedeus' asylum application as time-barred. Petitioners do not challenge this finding in their opening brief.

Substantial evidence supports the agency's denial of withholding of removal because the harm petitioners suffered on account of their Christian religion does not rise to the level of past persecution. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1182 (9th Cir. 2003). In addition, even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004) applies to Christian Indonesians seeking withholding of removal, petitioners failed to demonstrate that it was more likely than not that they will be persecuted if they return to Indonesia. *See Hoxha*, 319 F.3d at 1184-85. Lastly, the record does not compel the conclusion that there is a pattern or practice of persecution of Christians in Indonesia. *See Lolong v. Gonzales*, 484 F.3d 1173, 1180-81 (9th Cir. 2007) (en banc).

Substantial evidence also supports the agency's denial of CAT relief because petitioners did not establish that it is more likely than not they will be tortured if they return to Indonesia. *See Singh v. Ashcroft*, 351 F.3d 435, 443 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.